IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.633 OF 2006

In

NOTICE OF MOTION NO.733 OF 2006

In

SUIT NO.732 OF 2006

Asmabegum Co-op. Hsg. Society Ltd. & Anr. : Appellant
(Orig.Plaintiff)

V/s.

M/s.Atul Builders & Anr. : Respondents
(Orig.Defendants)

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Mr.V.A.Thorat, Senior Counsel, with Mr.Vijay Pandey & Mr.Vaibhav Sughdhare i/b. Mr.R.O. Pathak for the appellant.

Mr.Rohit Kapadia, Senior Counsel, with Mr.R.M.Vasudeo for the respondent.

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CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATE : AUGUST 28, 2006.

P.C.

1. Mr.V.A.Thorat, Senior Counsel, for the appellant submits that Notice of Motion No.733 of 2006 upon which the impugned order dated 8.8.2006 came to be passed may be permitted to be withdrawn. In our considered view, the

said prayer is not prejudicial to the interest of the defendants.

2. We, accordingly, allow Notice of Motion No.733 of 2006 to be withdrawn. As a result thereof, the impugned order dated 8.8.2006 does not survive and is rendered ineffective.

3. We are informed by the Senior Counsel for the appellant that Chamber Summons No.798 of 2006 has been taken out by the original plaintiff for impleadment of Asma Begum Co-operative Housing Society Ltd. as the second plaintiff.

4. Mr.Kapadia, Senior Counsel for the defendants, submits that reply to the said Chamber Summons is yet to be filed by the defendants. We direct that the defendants may file reply to the said Chamber Summons within two weeks from today.

5. We request the learned Chamber Judge to decide the Chamber Summons expeditiously.

6. Appeal is dispsoed of accordingly.

R.M. LODHA, J.

S.A. BOBDE, J.